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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Amendment of the Commission's Rules To
Establish Part 27, the Wireless
Communications Service ("WCS")

GN Docket No. 96-228

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**JOINT REPLY COMMENTS OF SPRINT SPECTRUM L.P. d/b/a SPRINT PCS
AND SPRINT CORPORATION**

Pursuant to the Notice of Proposed Rulemaking released by the Federal Communications Commission ("FCC" or "Commission") on November 12, 1996 in the above-captioned proceeding,¹ Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint PCS") and Sprint Corporation ("Sprint") submit the following joint reply comments responding to comments filed with the Commission on December 4, 1996.

¹ See *Amendment of the Commission's Rules To Establish Part 27, the Wireless Communications Service ("WCS")*, GN Docket No. 96-228, Notice of Proposed Rulemaking, FCC No. 96-441 (Nov. 12, 1996) ("NPRM"). In its NPRM, the Commission proposed the creation of a completely flexible and open-ended Wireless Communications Service ("WCS"). Specifically, the Commission proposes to award licenses in the 2.3 GHz range for large service areas through competitive bidding, to adopt literally no eligibility restrictions for WCS, and to allow partitioning of licensed service areas, disaggregation of spectrum, and franchising of portions of licensed service areas or spectrum on a lease basis. Licensees in this service would be allowed to provide any fixed, mobile or radiolocation service, or satellite Digital Audio Radio Services ("DARS"), consistent with the international frequency allocations for these bands. *NPRM* at ¶ 9.

I. INTRODUCTION

Most commenters in this proceeding mirror Sprint PCS and Sprint's recommendations that the best and most efficient use of the WCS spectrum will be to encourage innovative new services, such as wireless data and video service, and to provide additional needed spectrum for public safety radio and private/industrial radio use. Sprint PCS and Sprint urge the Commission, in light of the strong record developed in the comments, to reconsider its approach to WCS and develop rules to establish new and innovative services rather than providing for a "free-for-all" style CMRS service that will only duplicate existing services and likely harm the existing CMRS industry.

II. THE RECORD DOES NOT SUPPORT NATIONWIDE OR REGIONAL LICENSING OF WCS OR LARGE SPECTRUM BLOCKS

The vast majority of the commenters argue that nationwide or large regional geographic licenses will not promote the most efficient use of the spectrum and will limit participation in the service.² Instead, commenters generally, and the CMRS industry specifically, argue that the Commission should license WCS for Major Trading Areas ("MTAs") or Basic Trading Areas ("BTAs") and in spectrum blocks ranging from 5-10 MHz.³ The commenters point out that smaller license areas and smaller license blocks will encourage participation by a variety of entities, providing those entities with the capability to combine spectrum and license areas to fit the exact needs of a given service.⁴ As GTE notes,

² See, e.g. Personal Communications Industry Association ("PCIA") Comments at 12; GTE Comments at 3-4; Telephone and Data Systems ("TDS") Comments at 2.

³ See BellSouth Comments at 6, 8 (6 and 3 MHz paired, BTAs); PCIA Comments at 9, 16 (5 MHz blocks, MTAs); Pacific Telesis Group Comments at 1-2 (MTAs); ALLTEL Comments at 3-4 (5 MHz, MTAs); SBC Communications Comments at 4 (10 MHz, MTAs or BTAs); UTC Comments at 3, 5 (5 and 10 MHz, Economic Areas ("EAs")); Airtouch Communications Comments at 6, 9 (5 MHz, MTAs).

⁴ See GTE Comments at 4 ("GTE believes that smaller license areas provide the greatest flexibility for licensees, because smaller areas enable potential service providers to acquire spectrum to fit a particular service need in a particular area.")

“[i]t may prove far more cost effective to assemble BTAs into larger serving areas than to successfully acquire a larger geographic license area and have to address those portions of the region for which no immediate plans were made.”⁵ This approach will result in more efficient spectrum management, as well as a WCS industry better able to respond to the changing demands of consumers, including those located in rural areas.

A. WCS Rules and Procedures Must Ensure Regulatory Parity

Numerous commenters also urge the Commission to ensure that its rules and licensing procedures for WCS do not undermine the existing CMRS industry by giving an unfair competitive advantage to WCS providers. They argue that the Commission’s proposals would violate congressionally mandated regulatory parity by subjecting WCS providers to much less stringent regulation than CMRS providers, even those providing similar or identical services.⁶ The Commission must ensure that its WCS rules regulate similar services in similar fashion. SBC Communications stated in its comments that “[l]icensing WCS spectrum without direction or limitation [such as build-out requirements or spectrum caps,] would not only diminish the value of wireless spectrum and systems already in place, it would also devalue PCS licensees even before the systems are operational.”⁷ Sprint and Sprint PCS fully support this assessment and urge the Commission to consider carefully its rules in light of this potentially serious problem.

B. The Commission Should Consider Potential Uses of WCS Other Than Additional CMRS Spectrum

Numerous commenters agree with Sprint and Sprint PCS that using the WCS spectrum for specified new service categories, rather than assuming that the spectrum will be

⁵ *Id.*

⁶ *See, e.g.* Primeco Comments at 4-5; Florida Cellular RSA Limited Partnership Comments at 2-3; Omnipoint Comments at 12.

⁷ SBC Comments at 2.

used as additional capacity for existing voice telephony services, will better serve the public interest. Such an assumption can become a self-fulfilling prophecy if the Commission does not adequately consider alternative uses of the spectrum. A number of other viable options exist.

Lucent Technologies, Inc., the Interactive Services Association, BellSouth Corporation, and Bell Communications Research, Inc. ("Bellcore"), for example, all recommend strongly that the Commission designate WCS for the provision of broadband data, wireless mobile Internet access, and other wireless data services.⁸ The limited existing spectrum available for these kinds of services is not sufficient to support the expected growth in the demand for Internet and data services as a result of the increased mobility of the nation's workforce.⁹ The 2.3 GHz spectrum at issue in this proceeding could provide for these currently underserved services and would "broaden the benefits of wireless technology

⁸ See Lucent Comments at 7-8; Interactive Services Association Comments at 1-2; BellSouth Comments at 2; Bellcore Comments at 1. Lucent, PCIA and others argue persuasively that there is not currently a need for more CMRS spectrum and that the Commission should focus on other uses where there is a demonstrated need for spectrum. See Lucent Comments at 6-7; PCIA Comments at 6. See also Omnipoint Comments at 1-3; BellSouth Comments at 2-6; 21st Century Telesis, Inc. Comments; Multipoint Networks Comments at 1-2.

⁹ See BellSouth Comments at 3. Bellcore estimates that there will be 80 million users of the Internet by the year 2000 in the United States alone. Bellcore Comments at 1.

beyond voice applications.”¹⁰ The public interest, therefore, would be well served by an allocation of this spectrum for wireless data services.¹¹

A substantial number of parties also agreed with Sprint PCS and Sprint that a continued need exists for additional spectrum for public safety services.¹² The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) argues that only a specific allocation of WCS spectrum to public safety services will ensure that public safety needs adequately are met.¹³ Congress has mandated that public safety needs be taken into account with respect to licensing of the spectrum at issue.¹⁴ If competitive bidding will not ensure that public safety needs are considered, the Commission must make an exclusive allocation.

¹⁰ Lucent Comments at 2. Although one commenter suggests that the proposed spectrum will not provide adequate bandwidth for high speed data purposes, *see* DSC Communications Comments 3, other commenters, including Bellcore, Lucent and BellSouth, argue that the spectrum is well suited for such services. Bellcore states that the “technology has advanced to the point where it is technically and economically feasible to design and deploy a wireless system that is tailored to provide Internet access over wide areas . . . at data rates comparable to the rates customers would experience over a wired ISDN-type connection.” Bellcore Comments at 2.

¹¹ A number of other commenters in this proceeding have identified areas other than wireless data where there is a need for additional spectrum resources. *See, e.g.*, American Water Works Association Comments (additional spectrum to support water utilities); Radio Order Corporation (allocation for interactive satellite digital audio radio services); American Petroleum Institute Comments (industrial radio services); Vanderbilt University (K-12 educational services).

¹² *See* APCO Comments at 2; Motorola Comments at 9; Association of American Railroads Comments at 7; Harris Corporation-Farion Division Comments at 4; Pocket Communications, Inc. Comments at 5-6.

¹³ APCO Comments at 2-3.

¹⁴ Omnibus Consolidated Appropriations Act, 1997, Pub. L. No. 104-208, 110 Stat. 3009, § 3001(b)(2) (1996).

III. CONCLUSION

The Commission must ensure that sound spectrum allocation policy, rather than auction policy and the desire for increased revenues, drives the development of WCS services. Sprint and Sprint PCS encourage the Commission to pursue new and innovative uses of this spectrum to fill needed gaps in wireless service offerings, including wireless Internet access and data services. In addition, the record strongly supports an allocation of at least a 10 MHz portion of the WCS spectrum for exclusive use for public safety radio services. Although the time constraints established for conclusion of this proceeding are significant, Sprint and Sprint PCS respectfully submit that the Commission must carefully reconsider its approach to WCS based upon this record.

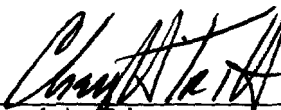
Respectfully submitted,

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Dated: December 16, 1996

CERTIFICATE OF SERVICE

I, Kathryn M. Stasko, do hereby certify that the foregoing **JOINT REPLY COMMENTS OF SPRINT SPECTRUM L.P. d/b/a SPRINT PCS AND SPRINT CORPORATION** were hand delivered on this 16th day of December, to the following:

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